

Appl. No. 10/664,318

Amdt. Dated December 16, 2004

Reply to Office Action of September 20, 2004

**REMARKS**

These remarks are submitted in response to the Office Action of September 20, 2004. In the Office Action the Examiner objected to the drawings, objected to portions of the specification, objected to certain claims, and rejected pending claims 1 through 25. This response is intended to address each of these objections or rejections. The applicant has submitted formal drawings that address the examiner's objections. The applicant has also submitted an amended paragraph that addresses the examiner's objections to the specification.

With respect to the claims, claims 3, 7, 10, 12, and 14 were objected to for informalities and lacking antecedents. These claims and/or claims from which they depend have now been amended in order to address the objections.

Additionally, all claims were rejected. Claims 1, 8, 10, and 17 were rejected as anticipated by Broinowski. Claims 2-7, 9, 11-16, and 18-25 were rejected as obvious over Broinowski. In response the applicant has amended some claims. In addition the applicant has submitted the Declaration of William Facinelli, which accompanies this response, and relies on the contents thereof.

In particular, applicant has added limitations to independent claim 1. For example, limitations previously found in claim 6 have been included in claim 1. Claim 6 is now cancelled. The applicant submits that the added limitations place the claims in a position of not being anticipated by the Broinowski reference. For example, one limitation relates to the clearance between a rotor tip and the interior surface of a housing. The applicant understands the office action as reading Broinowski not to anticipate a structure with such a limitation. Thus, it is submitted that all claims, as amended, are not anticipated by that reference.

However, the office action also rejected claims as obvious over Broinowski. In response thereto, the applicant submits the declaration of William Facinelli. The declaration points out, inter alia, particular reasons why it was not obvious to modify a preexisting waterjet structure so as to reach the claimed parameters of the waterjet. Further, the declaration recites secondary factors, unexpected results and praise by others, as indicative of nonobviousness. Thus, it is submitted that Mr. Facinelli's declaration overcomes the pending obviousness rejections.

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Accordingly, it is respectfully submitted that the Examiner's rejection of the remaining claims has been overcome by the amendments above recited as well as the applicant's submissions. If there are any fees associated with this Response, they may be charged to Deposit Account 50-2091. Please notify us of the same, referencing reference number H0004341-3112. In view of the preceding remarks, it is urged respectfully that the rejection of the claims be reconsidered and withdrawn, and that the presently submitted claims be allowed to issue. However, if the Examiner believes that any issues remain unresolved, he is invited to telephone the undersigned in order to expedite allowance.

Respectfully submitted

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